

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

KENNETH PITTS,

Plaintiff,

v.

No. 1:23-cv-00120-SCY

SAN JUAN COLLEGE,

Defendant.

ORDER REGARDING STATUS REPORT

The United States District Court for the District of Massachusetts transferred this case to this Court on February 9, 2023. *See* Doc. 28. Plaintiff appealed the District of Massachusetts' transfer order to the United States Court of Appeals for the First Circuit. *See* Defendant's Motion to Stay Pending Appeal, Doc. 32, filed February 23, 2023. This Court granted Defendant's Motion to Stay proceedings in this Court pending resolution of Plaintiff's appeal in the First Circuit. *See* Order at 3, Doc. 38, filed March 22, 2023. Because proceedings in this case have been stayed for over 19 months, the Court ordered the Parties to file a joint report on the status of the appeal.

The Parties filed a Joint Status Report stating that the appeal is still pending. *See* Doc. 43 filed December 5, 2024. Proceedings in this case will remain stayed while the appeal in the First Circuit is pending. *See* Order at 3, Doc. 38, filed March 22, 2023 (stating Plaintiff has not shown that this Court has jurisdiction over his claims while his appeal is pending in the First Circuit).

Plaintiff also filed a Request for Clarification on Order for Joint Status Report in which he asks whether the Court "mean[t] for the parties to [c]onfer and seek a resolution with the Ordering of this report as well as to provide a status update." Doc. 42, filed November 26, 2024

(“Motion for Clarification”). The Court reads Plaintiff’s motion for clarification as seeking clarification about whether the Court is directing the Parties to engage in settlement discussions. *See Motion for Clarification at 2, ¶ 2* (stating Defendant has failed to respond to Plaintiff’s requests to discuss settlement and the “specific aspects of the case that are inhibiting settlement”); Joint Status Report at 6 (Plaintiff “requests the assistance of this honorable Court in persuading the Defendant to [confer] with the Plaintiff to fulfill the Order for Status Report in joint fashion to make a good-faith attempt at resolving this case”). In ordering a status report, the Court did not also order the Parties to engage in settlement discussions. Because it is not a joint request, the Court declines to order the parties to engage in settlement discussions.

IT IS ORDERED that:

- (i) Proceedings in this case remain **STAYED**. The Parties shall notify the Court of the resolution of Plaintiff’s appeal to the United States Court of Appeals for the First Circuit within 30 days of resolution of the appeal. If the appeal is not resolved by June 13, 2025, the Parties shall file a report regarding the status of Plaintiff’s appeal by June 13, 2025.
- (ii) Plaintiff’s Request for Clarification on Order for Joint Status Report, Doc. 42, filed November 26, 2024, is **DENIED**.

Steve Yarbro
UNITED STATES MAGISTRATE JUDGE